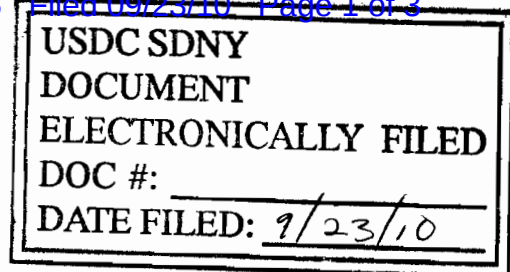


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
ORLANDO DIAZ,

Plaintiff,

-v.-

DORA SCHRIRO, Commissioner New York
City Department of Correctional Services, et al.,

Defendants.
-----X

**REPORT AND
RECOMMENDATION
TO THE HONORABLE
PAUL A. CROTTY**

09 Civ. 10311 (PAC)(FM)

FRANK MAAS, United States Magistrate Judge.

In this action, which is one of many similar suits, the pro se plaintiff complains that he was improperly strip searched while at Rikers Island. The complaint was filed on December 21, 2009. A docket entry on January 29, 2010, indicates that the Court sent the Rule 4 service package to the plaintiff at Rikers Island. I am advised that the Rule 4 service package was subsequently returned to the Pro Se Office on February 5, 2010, because the plaintiff had been released from Rikers Island. On September 1, 2010, I issued an order directing the Pro Se Office to issue a supplemental summons, and requiring the plaintiff to have the supplemental summons and complaint promptly served on the defendants. Because there was no alternative, the order was mailed to the plaintiff's last known address of record at Rikers Island, from which it, not surprisingly, was returned marked "Return to Sender, No Longer Here."

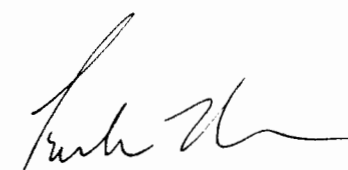
In a further effort to locate the plaintiff, my Chambers checked both the New York City Department of Correction and the New York State Department of Correctional Services on line prisoner locator services, (<http://a072-web.nyc.gov/inmatelookup/inmateLookup.do>; <http://nysdocslookup.docs.state.ny.us/kinqw00>), with negative results. Accordingly, because the plaintiff has failed to provide the Court with his current address, there is no way to contact him.

In these circumstances, I recommend that this case be dismissed without prejudice. Out of an excess of caution, I am sending a copy of this Report and Recommendation to the plaintiff's last known address at Rikers Island, although it appears certain that he is not there.

Notice of Procedure for Filing of Objections to this Report and Recommendation

The plaintiff shall have fourteen days from the service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. See also Fed. R. Civ. P. 6(a) and (e). Any such objections shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of the Honorable Paul A. Crotty, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, and to the chambers of the undersigned, at the United States Courthouse, 500 Pearl Street, New York, New York 10007. Any requests for an extension of time for filing objections must be directed to Judge Crotty. The failure to file timely objections will result in a waiver of those objections for purposes of appeal. See Thomas v. Arn, 474 U.S. 140 (1985); Fed. R. Civ. P. 6(a), 6(e), 72(b).

DATED: September 23, 2010
New York, New York



FRANK MAAS
United States Magistrate Judge

Copies to:

Honorable Paul A. Crotty
United States District Judge

Orlando Diaz
141-09-15910
Otis Bantum Correctional Center
1600 Hazen Street
East Elmhurst, New York 11370